

## CONTRACT FOR CONSTRUCTION

This Contract for Construction ("Contract"), No. 7076, 7077, 7078, 9145, 9146 & 9147 is made and entered into this 24th day of April, 2023 by and between the CITY OF UPLAND, with its principal place of business at 460 N. Euclid Avenue, Upland, California 91786 sometimes hereinafter called the "City" and Vido Samarzich, Inc., sometimes hereinafter called "Contractor."

**WITNESSETH:** That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

### ARTICLE 1. SCOPE OF WORK.

The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

**Project No. 7076, 7077, 7078, 9145, 9146 & 9147**

**Bid No. 2023-02**

**Alpine Street, Vernon Drive & Palm Avenue**

**Pavement Rehabilitation & Utility Improvements**

Contractor is an independent contractor and not an agent of the City. The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor's failure to comply with this obligation.

### ARTICLE 2. TIME FOR COMPLETION.

Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the City's Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within 150 calendar days from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

### ARTICLE 3. CONTRACT PRICE.

The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of **Three Million Nine Hundred Forty-Five Thousand Three Hundred Sixty-Two Dollars (\$3,945,362.00)**. Any work above \$3,945,362.00 up to \$4,340,000.00 for unforeseen conditions, change orders, etc. is at the City's sole discretion. Total compensation shall not exceed \$4,340,000.00 without prior approval from the City Council. Payment shall be made as set forth in the General Conditions. The City will pay to Contractor compensation based upon the prices set forth in the Bid Schedule.

#### **ARTICLE 4. LIQUIDATED DAMAGES.**

Contractor acknowledges that the City will sustain actual damages for each and every Day completion of the Project is delayed beyond the Contract Time. Because of the nature of the Project, it would be impracticable or extremely difficult to determine the City's actual damages. Accordingly, in accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum of **\$250.00** for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Section does not exclude recovery of other damages specified in the Contract Documents. Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent the City, in case of Contractor's default, from terminating the Contractor.

Consistent with Public Contract Code Section 7102, Contractor will be compensated for damages incurred due to delays for which the City is responsible. The parties agree that determining Contractor's exact delay damages is and will continue to be impracticable and extremely difficult. As such, for each calendar day in excess of the Contract Time, the City shall pay to the Contractor **\$250.00** per day as Reverse Liquidated Damages and not as a penalty or forfeiture. Such amount shall constitute the only payment allowed for any City caused delays and shall necessarily include all overhead, all profits, all administrative costs, all bond costs, all labor, materials, equipment and rental costs and any other costs, expenses and fees incurred or sustained as a result of such delays. Notice of requests for delay damages and additional days shall be provided to the City within five (5) Days from the discovery of the circumstances giving rise to any delay or three (3) Days from the discovery of any latent or subsurface conditions giving rise to a delay.

#### **ARTICLE 5. COMPONENT PARTS OF THE CONTRACT.**

The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Forms
- Bid Acknowledgement
- Bid Schedule
- Bid Guarantee
- Designation of Subcontractors
- Information Required of Bidders
- Non-Collusion Declaration Form
- Iran Contracting Act Certification
- Public Works Contractor DIR Registration Certification
- Performance Bond
- Payment (Labor and Materials) Bond
- Contract for Construction
- General Conditions
- Special Conditions
- Specifications
- Addenda

Construction Plans and Drawing  
Standard Specifications for Public Works Construction "Greenbook", 2018 edition  
Applicable Local Agency Standards and Specifications, as last revised  
Reference Specifications  
Approved and fully executed Change Orders  
Permits  
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. In the event of conflict, the various Contract Documents will be given effect in the order set forth in the General Conditions. This Contract shall supersede any prior agreement of the parties.

#### **ARTICLE 6. PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.**

Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

#### **ARTICLE 7. INDEMNIFICATION.**

Contractor shall provide indemnification and defense as set forth in the General Conditions.

#### **ARTICLE 8. PREVAILING WAGES.**

Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the City's Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

#### **ARTICLE 9. FALSE CLAIMS.**

Contractor acknowledges that if a false claim is submitted to the City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may the Contractor to an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF UPLAND

By:

  
Bill Velto, Mayor

ATTEST:

By:

  
Keri Johnson, City Clerk

APPROVED AS TO FORM:

By:

  
Best Best & Krieger LLP  
City Attorney

VIDO SAMARZICH, INC.

[IF CORPORATION, TWO SIGNATURES,  
PRESENT **OR** VICE PRESIDENT **AND**  
SECRETARY **OR** TREASURER **REQUIRED**]

By:



Its:

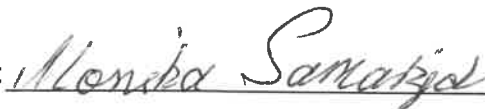
PRESIDENT

Printed Name:

VIDO SAMARZICH

[SECOND SIGNATURE LINE IF  
APPLICABLE]

By:



Its:

SECRETARY

Printed Name:

Monika Samartzich

433210 CLASS A

Contractor's License Number and  
Classification

1000013213

DIR Registration Number

(CONTRACTOR'S SIGNATURE MUST BE  
NOTARIZED AND CORPORATE  
SEAL AFFIXED, IF APPLICABLE)

END OF CONTRACT

## Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

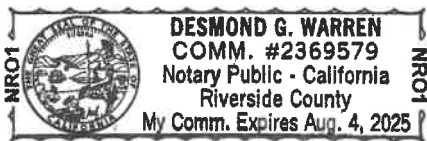
STATE OF CALIFORNIA  
COUNTY OF Los Angeles

On May 1, 2023, before me, Desmond G. Warren, Notary Public, personally appeared Vido Samarzich and Monika Samarzich, who proved to me on the basis of satisfactory

evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ they executed the same in ~~his~~ ~~her~~ their authorized capacity(ies), and that by ~~his~~ ~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature of Notary Public

### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### CAPACITY CLAIMED BY SIGNER

- ☐ Individual  
☒ Corporate Officer

President, Secretary  
Title(s)

- ☐ Partner(s) ☐ Limited  
☐ General

- ☐ Attorney-In-Fact  
☐ Trustee(s)  
☐ Guardian/Conservator  
☐ Other:

Signer is representing:  
Name Of Person(s) Or Entity(ies)

Vido Samarzich, Inc.

#### DESCRIPTION OF ATTACHED DOCUMENT

Contract For Construction

Title or Type of Document

4

Number of Pages

April 24, 2023

Date of Document

N/A

Signer(s) Other Than Named Above

